

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Walter Sobieraj,

Plaintiff,

v.

17-cv-616-JLS-MJR

United States of America,

Defendant.

DECISION AND ORDER

On July 6, 2017, Plaintiff Walter Sobieraj commenced this action and brought a negligence claim against Defendant United States of America pursuant to the Federal Tort Claims Act. Dkt. 1. Defendant answered on September 22, 2017. Dkt. 4. On September 29, 2017, this Court¹ referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 5.

On June 19, 2019, Defendant moved for summary judgment. Dkt. 21; *see also* Dkts. 22-24. On March 12, 2020, Judge Roemer issued a Report and Recommendation (“R&R”) recommending that the motion for summary judgment be granted. Dkt. 33. The parties did not object to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). On April 2, 2020, the

¹ Judge Vilardo was originally assigned to this case and made the referral to Magistrate Judge Roemer. On February 14, 2020, this case was reassigned to Judge John L. Sinatra, Jr. Dkt. 32.

Court directed the parties to provide a status report addressing whether the R&R was ripe for review and whether the scheduled mediation had occurred. Dkt. 35. Defendant filed a status report that same day, stating that, based on communications with Plaintiff's counsel, Plaintiff did not intend to file objections to the R&R. Dkt. 36. Plaintiff did not file a status report.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to grant Defendant's motion.

For the reasons stated above and in the R&R, the Defendant's motion for summary judgment, Dkt. 21, is GRANTED. The Complaint, Dkt. 1, is DISMISSED. The Clerk of the Court shall close the file.

SO ORDERED.

Dated: May 4, 2020
Buffalo, New York

s/John L. Sinatra, Jr.
JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE